



State of Idaho

DEPARTMENT OF HEALTH AND WELFARE

Division of Medicaid

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INFORMATIONAL LETTER #95-1

DATE: February 14, 1995

TO: ALL SKILLED NURSING FACILITIES

FROM: JOHN W. HATHAWAY, Chief
Bureau of Facility Standards

SUBJECT: RESIDENT ABUSE REPORTING
IN LONG TERM CARE FACILITIES

All incidents of potential, suspected, or known resident abuse, neglect, and misappropriation of resident property need to be reported to the facility administrator and other officials in accordance with State law (F228). This includes physical, mental, verbal, and sexual abuse. These forms of abuse are further defined in the Federal Regulations Interpretive Guideline at F223 and in the Idaho Code Chapter 53, Title 39-5301. All allegations must be thoroughly investigated internally by the facility (F229). Suggestions relating to the investigation include:

1. Conduct the investigation as soon as possible. Memories and evidence can fade with time.
2. Interview all staff and other witnesses involved, including residents. Attempt to get signed and dated statements. Statements should include all details, i.e., date of incident, time of day, location, exactly what occurred. If verbal behavior was involved, exact words need to be included. Witnesses may be encouraged, but not coerced in any way, to give a signed statement. Without signed witness statements, the Department may not be able to validate the complaint.
3. Get the name, address, and phone number of all witnesses.
4. If possible, and permission is obtained, take pictures of all physical evidence. If a patient has a bruise, laceration, etc., please try to get a quality photo of this, and date it. If tape recordings are made of interviews, maintain proper chain of evidence by keeping the tape in a safe place in the custody of the person making the tape.

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5. Take whatever actions necessary to ensure the resident's safety while the investigation is in progress (F229). This may include temporary suspension of staff or assigning suspect staff to work only while under direct observation of other staff.

If the facility's investigation indicates, or appears to indicate, that abuse occurred, notify Facility Standards. This meets the law requiring the reporting of abuse. You do not need to notify Adult Protection. If necessary, Facility Standards will contact Adult Protection for assistance with the investigation.

Per Idaho Code Chapter 53, Title 39-5303, the incident must be reported to the Department immediately once the facility has reasonable cause to believe abuse has occurred. The incident must, at the outside, be reported within five (5) working days of the incident (F230).

If the investigation indicates that a crime has been committed, notify the police.

If a licensed nurse was the perpetrator, notify the Board of Nursing at 334-3110.

If there is reasonable cause to believe that abuse or neglect occurred in another licensed facility, (Residential Care, Long Term Care, Acute Care, etc.), notify Facility Standards.

If a Certified Nursing Assistant (CNA) was the perpetrator:

1. Get a signed, written statement from the CNA if possible.
2. Make sure you have the current address, phone number, and Social Security number for the CNA.
3. Notify the Board of Nursing. They will instruct you to notify Facility Standards.
4. Send all the above information to Facility Standards making sure it is as complete as possible. Frequently missing information includes the date of the incident, the resident's name, CNA statement, address, and phone number of witnesses.

Should the facility decide to continue the CNA's employment, Facility Standards may ask for a written plan showing how the facility plans to ensure that the abuse does not reoccur.

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If Facility Standards validates the complaint, after the CNA's appeal rights have been exhausted, the Board of Nursing will flag the name on the registry and all inquirers will be notified that there has been a finding of abuse against this CNA. At that point, no Medicare/Medicaid certified long term care facility may employ the CNA (F226). The CNA will not be removed from the registry.

The facility reporting the abuse is notified by Facility Standards of the Department's decision to validate or not validate the complaint. If the Department is unable to validate the complaint, that does not mean that there was not reason for the facility to take a disciplinary action. The Department must evaluate the evidence with the following in mind:

1. Is there a preponderance of evidence that the CNA committed the abuse?
2. Is there evidence of intent to harm?
3. Was the infraction of sufficient significance to warrant ending the career of the CNA?
4. Will the evidence stand in a hearing?

If the perpetrator was another resident, the facility must prevent further potential abuse while the investigation is in progress (F229). Refer to Informational Letter #93-3 dated February 1, 1993, regarding Management of Combative Residents.

If the injury is of unknown source, the facility must thoroughly investigate the situation (F228 and F229). If the cause is determined to be abuse, proceed to notify Facility Standards as previously outlined.

If the abuse is determined to have most likely occurred in the community, such as at home, notify Adult Protection.

Always notify Facility Standards of the following:

1. Resident abuse or neglect that resulted in hospitalization or may have contributed to death.
2. Accidental resident death.

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3. Injuries of unknown source resulting in hospitalization or death.
4. Resident missing over two (2) hours.
5. Sexual abuse of a resident.
6. Any occurrence that causes residents to be evacuated.

Every abuse situation is unique. If you have additional questions regarding the reporting and/or investigation of abuse, please feel free to contact this office at 208/334-6626.

JOHN W. HATHAWAY, Chief
Bureau of Facility Standards

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cc: Idaho Health Care Association